

**IN THE UNITED STATES DISTRICT COURT
FOR THE MIDDLE DISTRICT OF PENNSYLVANIA**

MARCELLUS A. JONES,

Plaintiff,

v.

JOHN WETZEL, *et al.*,

Defendants.

No. 4:18-CV-02353

(Judge Brann)

ORDER

MAY 15, 2019

Marcellus A. Jones, a Pennsylvania state prisoner, filed this civil rights action alleging that numerous defendants violated his rights during his incarceration.¹ In January 2019, Magistrate Judge Martin C. Carlson issued a Report and Recommendation recommending that this Court dismiss several defendants from this action on the ground that the complaint fails to state a claim against those defendants and instead attempts to hold them liable based solely on their supervisory status.² Jones filed timely objections to the Report and Recommendation after receiving two extensions from this Court.³

¹ Doc. 1.

² Doc. 10.

³ Docs. 15, 17, 18.

“If a party objects timely to a magistrate judge’s report and recommendation, the district court must ‘make a de novo determination of those portions of the report or specified proposed findings or recommendations to which objection is made.’”⁴ Regardless of whether timely objections are made, district courts may accept, reject, or modify—in whole or in part—the magistrate judge’s findings or recommendations.⁵ After reviewing the record, the Court finds no error in Magistrate Judge Carlson’s recommendation, with one exception. Although Magistrate Judge Carlson recommends dismissing all defendants with the exceptions of Hoffner, Robert Boyce, Pottage, Moser, Young, Dowd, and Beach, the complaint also seeks to hold Edem liable based upon his personal actions,⁶ and Edem will therefore not be dismissed from the action at this time.⁷ Consequently, **IT IS HEREBY ORDERED** that:

1. Magistrate Judge Martin C. Carlson’s Report and Recommendation (Doc. 10) is **ADOPTED in part**;

⁴ *Equal Emp’t Opportunity Comm’n v. City of Long Branch*, 866 F.3d 93, 99 (3d Cir. 2017) (quoting 28 U.S.C. § 636(b)(1)).

⁵ 28 U.S.C. § 636(b)(1); Local Rule 72.31.

⁶ Doc. 1 at 11.

⁷ In his objections, Jones notes that he made allegations against three individuals—McCord, Palerino, and Nurse Kathy—based upon their personal conduct, and asserts that Magistrate Judge Carlson therefore erred in recommending their dismissal from the case. (Doc. 18 at 2-4). However, none of those individuals are named as defendants in this matter. (See Doc. 1 at 2-6).

2. Jones' request for a specified sum of unliquidated damages is **STRICKEN**;
3. All defendants with the exceptions of Hoffner, Boyce, Pottage, Moser, Young, Dowd, Beach, and Edem are **DISMISSED**;
4. Jones may file an amended complaint within 30 days of the date of this Order that addresses the deficiencies identified in Magistrate Judge Carlson's Report and Recommendation. Failure to timely file an amended complaint will be deemed an election to proceed only with respect to remaining Defendants; and
5. Service is deferred pending receipt (or non-receipt) of Jones' amended complaint.

BY THE COURT:

s/ Matthew W. Brann

Matthew W. Brann

United States District Judge